



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 236

[COE-2020-0004]

RIN 0710-AB05

Water Resource Policies and Authorities: Corps of Engineers Participation in Improvements for Environmental Quality

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes the U.S. Army Corps of Engineers' part titled Water Resource Policies and Authorities: Corps of Engineers Participation in Improvements for Environmental Quality. Each removed section of this part is out-of-date and redundant of or otherwise covers internal agency operations that have no public compliance component or adverse public impact. Therefore, this part can be removed from the Code of Federal Regulations (CFR).

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Department of the Army, U.S. Army Corps of Engineers, ATTN: CECW-P (Ms. Amy Frantz), 441 G Street NW, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Frantz at (202) 761-0106 or by email at Amy.K.Frantz@usace.army.mil.

SUPPLEMENTARY INFORMATION: This final rule removes from the CFR 33 CFR part 236, Water Resource Policies and Authorities: Corps of Engineers Participation in Improvements for Environmental Quality. The rule was initially published in the *Federal Register* on April 30, 1980 (45 FR 28714). The regulation provided guidance and procedures to Corps field offices

regarding the Corps' role in environmental quality improvements as part of a water resource project. The Corps' role in environmental quality broadened over the years and the regulation made clear that balancing economic and environmental interests was a major requirement to be considered in the planning of all Corps projects. It was published, at that time, in the *Federal Register* to aid public accessibility. The solicitation of public comment for this removal is unnecessary because the rule is out-of-date and redundant of or otherwise covers internal agency operations that have no public compliance component or adverse public impact. For current public accessibility purposes, updated internal agency policy on this topic may be found in the Principles for Water and Related Land Resources Implementation Studies, related to the formulation of recommended plans for water resources development projects, and in Engineer Regulation 1105-2-100, "Planning Guidance Notebook" (available at https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_1105-2-100.pdf). Also, environmental evaluation is required under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321-4347) and is implemented by the U.S. Army Corps of Engineers pursuant to 33 CFR part 230, Procedures for Implementing NEPA.

This rule removal is being conducted to reduce confusion for the public as well as for the Corps regarding the current policy which governs the Corps' use of Environmental Quality measures in Corps projects as well as the current policy for environmental evaluation. The Procedures for Implementing NEPA were updated after this regulation and provide the current policy approach for the Corps in their environmental evaluation process. Because the regulation does not place a burden on the public, its removal does not provide a reduction in public burden or costs.

This rule is not significant under Executive Order (E.O.) 12866, "Regulatory Planning and Review." Therefore, the requirements of E.O. 13771, "Reducing Regulation and Controlling Regulatory Costs," do not apply. This removal supports a recommendation of the DoD Regulatory Reform Task Force.

List of Subjects in 33 CFR Part 236

Environmental protection, Water resources.

PART 236—[REMOVED]

Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 236.

R.D. James,

Assistant Secretary of the Army

(Civil Works).

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